

Quarterly Review

MEMORANDUM

September 20, 2007

TO: Management and Fiscal Policy Committee

FROM: Amanda M. Mihill, Legislative Analyst *A. Mihill*

SUBJECT: **Quarterly Review:** Comcast, RCN, and Verizon Customer Service

The following are expected to attend this worksession:

Jane Lawton, Cable Communications Administrator, Office of Cable and Communications Services ("Cable Office")
Bob Hunnicutt, Columbia Telecommunications Corporation (CTC)
Representatives from Comcast, RCN, and Verizon

The Management and Fiscal Policy Committee is holding this worksession to review customer service performance for Comcast Cable Communications, RCN, and Verizon Communications to ensure that performance measures established by the County's franchise agreements are being attained. As part of the Department of Technology Services, the Cable Office continually monitors customer service data for Comcast, RCN, and Verizon. The Cable Office staff actively works with company representatives to resolve a variety of issues.

I. Customer Service Guidelines

A. Cable Television Guidelines

Pursuant to the 1992 Cable Television Consumer Protection and Competition Act, the Federal Communications Commission (FCC) adopted guidelines for improving the quality of customer service provided by cable operators. During the last ten years, FCC standards have become boilerplate language in most local cable franchise agreements, including the County's agreements with Comcast and RCN. These agreements establish numerical standards for minimum customer service requirements that are virtually identical to FCC standards. The

franchise agreement with Verizon has similar standards, but the language is not identical to the language in the County's franchise agreements with Comcast and RCN.

The following is a summary of the FCC standards that are part of the County's franchise agreements (©1-2). Although Comcast and RCN are required to provide monthly reporting numbers, their performance is measured quarterly to determine compliance. A violation of these minimum customer service standards may result in fines being levied against a franchisee.

1. Subscriber Calls to a Cable System

Unless otherwise noted, the following requirements must be met 90 percent of the time, measured quarterly, under normal operating conditions. In the County's franchise agreements normal operating conditions are defined as, "those service conditions which are within the control of the cable operator." These conditions include special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or rebuild of the cable system.

1. Each cable system must maintain a local, toll-free, or collect-call telephone line that must be available 24 hours a day, seven days a week.
2. Company representatives must be available to respond to customer inquiries during normal business hours, which is defined as the hours during which most similar businesses in the community are open to serve customers.
3. After normal business hours, the cable system may use an answering service or machine, so long as messages are responded to the next business day.
4. A call to a cable system must be answered (including the length of time the caller is put on hold) within 30 seconds after the connection is made. If the call is transferred, the transfer time may not exceed an additional 30 seconds.
5. Cable system customers may receive a busy signal no more than three percent of the time.
6. Although no special equipment is required to measure telephone answering and hold times, cable operators should use their best efforts in documenting compliance.

2. Installations, Service Interruptions, and Service Calls

The following requirements for installations, outages, and service calls must ordinarily be met at least 95 percent of the time, measured quarterly, under normal operating conditions.

1. Federal guidelines state that standard installations, which are those located up to 125 feet from the existing distribution system, must be performed within seven days after an order has been placed.

2. Except in situations beyond their control, cable operators must begin work on a service interruption no later than 24 hours after being notified of the problem. A service interruption has occurred if the picture or sound on one or more channels has been lost.
3. Cable operators must begin to correct other service problems the next business day.
4. Cable operators may schedule appointments for installations and other service calls either at a specific time or, at a maximum, within a four-hour time period during normal business hours.
5. Cable operators may also schedule service calls outside of normal business hours for the convenience of the customer.
6. No appointment cancellations are permitted after the close of business on the business day prior to the scheduled appointment. If the cable installer or technician is running late, and will not meet the specified appointment time, he or she must contact the customer and reschedule the appointment at the convenience of the subscriber.

B. Internet Access Service Standards

As required by Executive Regulation 26-03AMII, Cable Modem Service Standards, September 2004 was the first month the companies were required to provide the County with customer service data related to high-speed internet service. On April 10, 2007, the Council approved Regulation 26-06AM, Internet Access Service Standards, which superseded Regulation 26-03AMII. Regulation 26-06AM continues the reporting requirement; however certain customer service standards were modified by Regulation 26-06AM.

Regulation 26-06AM requires the following:

1. Calls must be answered in 30 seconds at least 75 percent of the time.
2. Calls must receive a customer account executive (CAE) connection within 60 seconds at least 75 percent of the time.
3. Repairs must be performed in 36 hours at least 90 percent of the time. (Regulation 26-03AMII specified that this standard must be met 95 percent of the time.)
4. Installations must be performed in 7 days at least 90 percent of the time. (Regulation 26-03AMII specified that this standard must be met 95 percent of the time.)

II. Customer Service Performance

A. Comcast Summary

1. Video Customer Service Performance

Complete second quarter data was discussed at the Committee's July meeting. At that meeting, the Cable Office noted that Comcast had been out of compliance on customer call answering requirements for more than a year. Complete third quarter data is not yet available so it is impossible to determine if the company complies with the customer service standards for the third quarter; however, information submitted for the months of July and August shows an improvement in call answering standards. Additionally, Comcast was not in compliance with the franchise agreement's provisions that 95 percent of repairs must be performed within 24 hours. Comcast was notified of that violation and given the months of September, October, and November 2007 to come back into compliance (©6). This information is provided in Table 1 on page 5.

Comcast has submitted a letter describing steps the company has taken to bring the company back into compliance (©40-41). **Committee members may wish to discuss these and any other measures Comcast is taking to bring the company back into compliance for the customer call answering categories and the percentage of repairs performed within 24 hours.**

When determining compliance with the franchise agreements, the Cable Office uses the following telephone answering standards: (1) the telephone call must be answered by a live representative within 30 seconds from the time a customer selects their choice on the automated response unit; and (2) if a transfer to another customer service representative is required, the transfer must be answered within an additional 30 seconds. The Cable Office reports that Comcast disagrees with these standards and prefers the following standards: (1) the automated response unit must answer the incoming telephone call within 30 seconds; and (2) a live representative must answer within 30 additional seconds. The Cable Office reports that it continues to use the same standards for all three cable providers (©6).

At the last Committee meeting, the Cable Office noted that Comcast was assessed \$24,563.70 in liquidated damages for the December 2006 through February 2007 timeframe. Since Comcast was unable to come back into compliance for the March through May 2007 timeframe, the company has been assessed an additional \$24,563.70 in liquidated damages.

**TABLE 1: Customer Service Summary Information Provided by Comcast for Video
October 2006 – September 2007**

| Category of Service | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Aug | Sept |
|--------------------------------------------------------------------------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|-------------|------------|-------------|
| Percentage of calls answered in 30 seconds (90% required by franchise agreement) | 85 | 80 | 73 | 77 | 80 | 85 | 89 | 74 | 87 | 90 | 90 | * |
| Percentage of calls receiving a CAE connection within 60 seconds (90% required by franchise agreement) | 85 | 76 | 74 | 73 | 76 | 83 | 61 | 79 | 84 | 89 | * | * |
| Percentage of repairs performed within 24 hours (95% required by franchise agreement) | 88 | 94 | 97 | 91 | 85 | 83 | 86 | 82 | 85 | 82 | * | * |
| Percentage of installations performed in 7 days (95% required by franchise agreement) | 100 | 100 | 100 | 100 | 98 | 97 | 96 | 96 | 96 | 96 | * | * |

* Data not due to the County yet

2. Cable Modem Customer Service Performance

At the last Committee customer service briefing, complete second quarter data was unavailable, so at that time it was impossible to determine if Comcast was in compliance for the second quarter of 2007 for cable modem service. Completed second quarter data has been provided and shows that Comcast was in compliance with all customer service categories in the fourth quarter except the percentage of repairs performed within 36 hours. Complete third quarter data is not yet available so it is impossible to determine if the company complies with the customer service standards for the third quarter.

B. RCN Summary

1. Video Customer Service Performance

At the last Committee briefing, complete second quarter data was unavailable so it was impossible to determine if RCN complied with the customer service standards for the second quarter. Since the Committee briefing, RCN has provided complete second quarter data that shows the company was in compliance with all customer service categories. Complete third quarter data is not yet available so it is impossible to determine if the company complies with the customer service standards for the third quarter. This information is provided in Table 2 on page 6.

**TABLE 2: Customer Service Summary Information Provided by RCN for Video
July 2006 – June 2007**

| Category of Service | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June | July | Oct | Sept |
|--------------------------------------------------------------------------------------------------------|------------|------------|------------|------------|------------|------------|------------|------------|-------------|-------------|------------|-------------|
| Percentage of calls answered in 30 seconds (90% required by franchise agreement) | 97 | 97 | 97 | 97 | 98 | 97 | 97 | 97 | 94 | 85 | * | * |
| Percentage of calls receiving a CAE connection within 60 seconds (90% required by franchise agreement) | 93 | 85 | 92 | 89 | 86 | 93 | 91 | 92 | 90 | 92 | * | * |
| Percentage of repairs performed within 24 hours (95% required by franchise agreement) | 97 | 98 | 97 | 97 | 98 | 97 | 98 | 97 | 98 | 98 | * | * |
| Percentage of installations performed in 7 days (95% required by franchise agreement) | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | * | * |

* Data not due to the County yet

2. Cable Modem Customer Service Performance

At the last Committee customer service briefing, complete second quarter data was unavailable, so at that time it was impossible to determine if RCN was in compliance for the second quarter of 2007 for cable modem service. Completed second quarter data has been provided and shows that RCN was in compliance with all customer service categories. Complete third quarter data is not yet available so it is impossible to determine if the company complies with the customer service standards for the third quarter.

C. Verizon

Verizon has now met the subscriber threshold that requires the company to submit reports and they will submit reports for the third quarter. The Cable Office is meeting with Verizon representatives to discuss reporting methods to ensure that Verizon will be able to track telephone compliance numbers for the County (©7).

D. Office of Cable and Communications Services Summary of Complaints (©12-14)

1. Comcast

For the months of June, July, and August, the Cable Office received 493 complaints for Comcast, which is a decrease from the same time in 2006. The majority of calls received were for service, reception, and billing. **Committee members may wish to ask Comcast representatives to address the number of complaints received.**

2. RCN

For the months of June, July, and August, the Cable Office received 12 complaints from RCN customers. The majority of these complaints were for service, billing, and telephone answering. RCN has only a fraction of the customers that Comcast serves. The Cable Office reports that it remains concerned with the lack of responsiveness concerning complaints. RCN takes several days to respond to a complaint and a few additional days to correct the problem (©4). **The Committee may wish to discuss this issue with RCN representatives.**

3. Verizon

For the months of June, July, and August, the Cable Office received 21 complaints from Verizon customers. The Cable Office reports that billing conversions from telephone to the FiOS packages seem to be the area that the County is currently receiving the most complaints (©6).

The Committee should note that the complaint data provided in Table 3 below does not include calls from subscribers about cable rates.

**TABLE 3: Customer Service Complaints to the Cable Office
January – August**

| Issue Category | Comcast Complaints | RCN Complaints | Verizon Complaints |
|-------------------------|--------------------|----------------|--------------------|
| Billing | 347 | 14 | 20 |
| Service | 673 | 17 | 4 |
| VoIP | 68 | 0 | - |
| Internet Service | 275 | 6 | 2 |
| Telephone | 114 | 4 | 1 |
| Reception | 344 | 8 | 2 |
| Construction | 28 | 0 | 12 |
| Marketing | 53 | 1 | 8 |
| Installation | 41 | 1 | 5 |
| Serviceability | 8 | 1 | 2 |
| Cable Line Related | 157 | 4 | 1 |
| Other | 56 | 3 | 5 |
| Total Issues Generated* | 2164 | 59 | 62 |
| Total Complaints | 1091 | 38 | 46 |

* This total includes multiple complaints covering different issues filed by the same customer.

E. Construction Violations

1. Comcast

During the second quarter of 2007, CTC reported 3,018 Comcast violations, which is a 3.1 percent increase from the last quarter and a 37.3 percent increase from the same time last year (©30). This information is provided in Table 4 on page 9. By the end of the second quarter,

Comcast reported that the company had addressed 2,377 violations (79 percent) and had corrected all but 260 of the problems reported. The CTC report states that these violations require cooperation with other service providers attached to the poles to attain proper clearances from their cables, or will need additional work to cure. At the time CTC submitted their report, Comcast had not yet responded to 1,682 violations reported in previous quarters: 348 from the first quarter 2007 and 1,334 violations from the fourth quarter 2006.

CTC reported that over one-third of the Construction violations were related to either guying of the poles that support the cable plant or to the lashing that secured the cables to the supporting strand. Approximately 16 percent of total violations related to large tree branches posing problems for the cable plant. Approximately 13 percent of construction violations were related to grounding of the steel strand on the poles.

About 36 percent of second quarter violations related to subscriber drops. CTC found many locations where newly installed drops did not meet current NEC code for grounding, which requires the drop to be bonded to the main electrical service ground. CTC found some locations where the drop ground wire had been bonded to heat pumps, swimming pool timers, water fountains, cold water spigots, and even one that had been connected to a construction trailer. Other drop related violations included drops that were not properly attached to the house or to the pole on the street, disconnected drops that dangled from the poles at the street and needed to be removed, and exposed underground drops that needed to be properly buried (©30-31).

CTC also reported four inspection alerts in the fourth quarter – all for temporary drop cables across sidewalks, driveways, or roadways. Comcast corrected three of those violations by the end of the quarter and reported correction of the one outstanding alert from the first quarter 2007 (©32).

Based on CTC's re-inspection of violations reported corrected, CTC found that approximately 15 percent were not corrected as reported. This percentage exceeds the benchmark of 10 percent, but is a decrease from the 20 percent CTC reported for the fourth quarter and the 17 percent CTC reported for the first quarter 2007 (©32).

The Committee may wish to discuss this information with Comcast representatives. What is the status of correcting outstanding violations from the fourth quarter of 2006 and the first quarter of 2007? What steps is Comcast taking to address the increase in number of reported construction violations? What steps is Comcast taking to decrease re-inspection violation percentages?

**TABLE 4: Construction Inspection Summary—Reported Violations for Comcast
3rd Quarter 2005 – 2nd Quarter 2007**

| Type of Problem | 2005 3rd Quarter | 2005 4th Quarter | 2006 1st Quarter | 2006 2nd Quarter | 2006 3rd Quarter | 2006 4th Quarter | 2007 1st Quarter | 2007 2nd Quarter |
|-------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Construction | 566 | 370 | 1,013 | 1,460 | 1,720 | 1,364 | 1,675 | 1,831 |
| Design | 140 | 219 | 0 | 0 | 0 | 0 | 0 | 0 |
| Equipment | 193 | 201 | 242 | 48 | 49 | 75 | 38 | 38 |
| Restoration | 260 | 209 | 56 | 58 | 123 | 179 | 56 | 55 |
| Subscriber Drops | 440 | 630 | 839 | 633 | 558 | 680 | 1,159 | 1,094 |
| Totals | 1,599 | 1,629 | 2,150 | 2,199 | 2,450 | 2,298 | 2,928 | 3,018 |

(Note: Data compiled from CTC's Testing and Inspection Reports.)

2. RCN

During the second quarter of 2007, CTC reported 426 RCN violations. This information is provided in Table 5 on page 10. Nearly all of the violations were in the construction category and CTC reported that the plant problems in the rights-of-way were primarily for locations that required tree guards or tree trimming (34 percent), correction of guying or lashing violations (25 percent), or proper bonding and/or grounding of the plant. The reminder of the cited violations included clearance issues with other cables on the poles and locations where coils of fiber optic cables had come loose from their attachment to the strand and fallen to the ground. CTC also reported nine locations where RCN needed to relocate their cables from old poles to new poles so the old poles (©36).

Drop problems accounted for 10 percent of the violations, mainly for unused drops that required removal or drops that were too low and presented clearance problems (©36).

At the last quarterly briefing, there was a discrepancy between the number of outstanding violations on record with the Cable Office and RCN. CTC reports that as a result of discussions between RCN and the County, there are still 1,421 violations that RCN has not reported as corrected (©36-37). The Cable Office reports that CTC has received responses to 213 of the outstanding violations and has assigned these outstanding violations to contractors for corrective action and will be providing weekly reports to the County (©7-8).

Based on CTC's re-inspection of violations reported corrected, CTC found that approximately 8 percent were not corrected as reported (©37).

The Committee may wish to discuss RCN's efforts to correct outstanding construction violations.

**TABLE 5: Construction Inspection Summary—Reported Violations for RCN
3rd Quarter 2005 – 2nd Quarter 2007**

| Type of Problem | 2005 3rd Quarter | 2005 4th Quarter | 2006 1st Quarter | 2006 2nd Quarter | 2006 3rd Quarter | 2006 4th Quarter | 2007 1st Quarter | 2007 2nd Quarter |
|-------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Construction | 56 | 7 | 393 | 655 | 724 | 470 | 144 | 385 |
| Design | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Equipment | 1 | 0 | 0 | 0 | 0 | 1 | 3 | 0 |
| Restoration | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Subscriber Drops | 10 | 1 | 85 | 60 | 76 | 55 | 30 | 41 |
| Totals | 69 | 8 | 478 | 715 | 800 | 526 | 177 | 426 |

(Note: Data compiled from CTC's Testing and Inspection Reports.)

3. Verizon

The Cable Office has been meeting with Verizon to review inspection and reporting procedures. The Cable Office reports that although only a few violations have been found and reported for the Verizon cable plant so far, Verizon has been responsive in taking corrective action in a timely manner (©8).

III. Other Issues

A. Enforcement Mechanisms

At the last Committee review, the Committee asked Council staff to identify potential enforcement mechanisms the County can employ if a company does not comply with the customer service requirements set forth in the franchise agreements and County law. The County law provides for three basic enforcement remedies: impose liquidated damages as specified in the franchise agreement, require the franchisee to pay its subscribers of classes of subscribers, and revoke the franchise. In addition to these remedies, §8A-20(c) authorizes the County to seek legal or equitable relief in court (©39).

The County's various franchise agreements provide for similar enforcement remedies, except that the franchise agreements with Comcast and RCN also allow the County to reduce the duration of the Franchisee on any basis the County determines is reasonable and affords the Franchisee reasonable due process.¹ Provisions in the County's franchise agreements require franchisees to comply with applicable County law.

Short of amending County law to provide for different penalties, the Committee could consider other options to encourage compliance with the franchise agreement, such as asking the Cable Office to issue a "report card" or press release that would identify if cable companies are meeting the customer service requirements as required by the franchise agreement.

¹ A similar provision was removed from the County law by Bill 40-06.

B. Comcast

1. Cable and High-Speed Internet and Institutional Network (I-NET) Requests

Under the County's franchise agreement with Comcast, the company is required to connect and provide service to certain sites. There are currently 19 outstanding requests for free cable modem or video services (©15).

The Cable Office reports that there is only one remaining I-NET site outstanding that was franchise-related. Comcast has notified the County that Washington Suburban Sanitary Commission – Burtonsville will be completed in the fourth quarter of 2007 (©9).

2. Arbitration Notice

On July 10, the County was notified that Comcast would be sending customers an arbitration notice through a bill insert. (See ©19 for a copy of the County's press release urging County residents to opt out of the arbitration notice.) County Code §8A-14(d) provides that a franchisee "must provide to the County a copy of all forms describing customer service policies and procedures when they are distributed to subscribers, and if possible, should provide these forms to the County before they are distributed." Section 9(f)(4) of the County's franchise agreement with Comcast provides:

Copies of all notices, promotional or special offers sent to Subscribers and any agreements used with Subscribers shall be filed promptly with the County. All forms and notices distributed to customers which describe customer service policies and procedures shall be subject to County approval. County response to Franchisee's requests for review shall be made within five (5) working days of Franchisee's submission, and approval shall not be unreasonably withheld.

The Cable Office reports that it did not receive advance notice as required by the franchise agreement and met with Comcast to admonish them to provide materials to the office for review prior to distribution to customers (©3). Comcast argues that it complied with County law because the company provided the Cable Office with a copy of the customer notice regarding the new arbitration policy prior to distributing it to customers (©21).

3. Petition for Determination of Effective Competition

Comcast has filed a Petition for Determination of Effective Competition with the FCC. If the Petition is granted, the County and municipalities would lose the authority to regulate rates for basic cable service, installations, and equipment. Additionally, the Cable Office notes that Comcast would not be required to charge uniform rates throughout the franchise area; could bundle services so that basic subscribers would have to subscribe to higher tiers of service to receive premium channels; and could charge subscribers for services unless a customer affirmatively "opts-out". The FCC is currently reviewing the Petition. (See ©4 for an update on the Petition.)

4. High Speed Internet

The Cable Office reports that it has been receiving complaints from Comcast internet customers that they are being disconnected for excessive downloading. Comcast has informed the Cable Office that they have concerns about releasing firm downloading limits, but the limit is so large that it is difficult to reach and there are few customers who have reached that limit (©4). A *Washington Post* article discussing this issue is attached at ©16-18.

5. Pixilation

The Cable Office reports an increase in the number of reception-related problems (i.e., picture quality or pixilation). Pixilation occurs when the picture “freezes up” for a few moments and then normal picture quality resumes. According to the Cable Office, the majority of complainants also report having a difficult time reaching Comcast via telephone. Complainants report that their phone calls are disconnected after ringing for several minutes (©4).

6. Mid-Term Technical Review

The County’s franchise agreement with Comcast allows the County to conduct a Mid-Term Technical Review of Comcast’s cable system to evaluate the technical performance and capabilities of Comcast’s system, including the Institutional Network, to determine whether to require a system upgrade to conform with technical improvements commonly in use in the industry and available on systems in communities similar to the County.

The Cable Office’s report on the review is on ©9-10. In summary, based on reports filed by CTC and Comcast, the Cable Office reports that it is not necessary to require Comcast to upgrade its cable television system.

The Cable Office did identify the following PEG and I-Net issues that may arise in the future:

- The analog video programming links to the Comcast headend should be upgraded to digital;
- The County may request VOD service for PEG programming in the future; and
- Comcast should work with the County to complete construction of the I-Net to WSSC-Burtonsville.

7. PEG Interconnection

County consultants and Comcast are working to establish a digital transport switching system to permit bi-directional interconnection between all PEG operators that will facilitate sharing video programming in their production facilities. The Cable Office reports that Comcast’s fiber has been recently tested to ascertain the feasibility for this interconnection project (©10-11).

C. Verizon

1. Copper Disconnection Policy

As reported in several news outlets, it is Verizon's practice to disconnect copper wires when a customer signs up for FiOS services. (See ©24-25 for a *WTOPnews.com* article related to this matter.) The Cable Office has sought clarification on this copper disconnection policy and reports that when Verizon installs FiOS, they disconnect (but leave in place) the copper drop cable if it is buried. If the copper connection is aerial, Verizon leaves the drop in place on the pole unless the customer requests that it be moved. If a customer requests to switch back to copper-based phone service, Verizon will reinstall the copper drop (©5).

2. Proof of Performance Tests and Non-Disclosure Statements

The Cable Office reports that proof tests required on the Verizon system based on the FCC's criteria occurred this summer, but CTC was denied access to Verizon's central office to observe these tests because the engineers did not sign a non-disclosure agreement. This issue was discussed at briefings held in February and July. At the February meeting, the Cable Office noted that the confidentiality agreement was not discussed during the franchise negotiation process. The Cable Office reports that it appears that appropriate information would be furnished so the office can verify the success of the performance tests. The Cable Office indicates that this continues to be an open matter between Verizon and the County (©5, 8). **The Committee may wish to receive an update on this situation at the briefing.**

This packet contains:

| | <u>Circle</u> |
|--------------------------------------------------------------------|---------------|
| FCC fact sheet, June 2000 | 1 |
| Memorandum from the Office of Cable and Communications Services | 3 |
| Office of Cable and Communications Services Complaint Data | 12 |
| Requests for Cable Drops for Public Facilities | 15 |
| <i>Washington Post</i> article re internet downloading | 16 |
| County News Release re Comcast arbitration notice | 19 |
| Letter from Comcast re arbitration notice | 21 |
| <i>WTOPnews.com</i> article re Verizon copper disconnection policy | 24 |
| CTC's Testing and Inspection Report Comcast | 26 |
| CTC's Testing and Inspection Report RCN | 36 |
| County Code §8A-20 | 39 |

In order to exercise its authority to regulate basic cable rates and equipment, a franchising authority must be certified by the Commission. Unless notified otherwise by the Commission, a franchising authority's certification becomes effective 30 days after it is filed with the Commission. A franchising authority whose request for certification has been denied or revoked may petition the Commission for re-certification. In addition, a franchising authority that lacks the resources or legal authority to regulate basic cable service rates may petition the Commission to assume regulation, but the franchising authority must affirmatively demonstrate its inability to regulate to the Commission. The Commission will not intervene to regulate basic cable service rates should a franchising authority choose not to seek certification or choose not to request that the Commission assume jurisdiction. Appeals of local decisions will be heard by the Commission or by state or local courts, depending upon the subject matter involved.

The 1996 Act modified the regulation of cable programming services and the rate complaint process established under the 1992 Cable Act. Pursuant to the 1996 Act, the Commission's authority to regulate the rates charged for cable programming services (those are the channels that are not on cable system's basic tier and are not sold on a per-channel or per-program basis) was terminated for services provided after March 31, 1999. Therefore, the rates charged for cable programming services are determined by the cable company and the Commission does not have the authority to review these rates or to investigate allegations that the rates are excessive.

The 1996 Act did not modify the local franchising authority's ability to regulate basic cable rates. Therefore, complaints about basic cable rates should be filed with the franchise authority.

Rates for channels sold on a per-channel or per-program basis are not regulated.

CUSTOMER SERVICE GUIDELINES

Pursuant to the 1992 Cable Act, the Commission adopted federal guidelines which provide a standard for improving the quality of customer service rendered by cable operators. These guidelines provide minimum levels of service which should be provided by a cable operator. The guidelines address issues such as the cable operator's communications with customers over the telephone, installations, service problems, changes in rates or service, billing practices and information that must be provided to all customers. **Although the standards were issued by the Commission, local franchising authorities are responsible for adopting and enforcing customer service standards. Franchising authorities may also adopt more stringent or additional standards with the consent of the cable operator or through enactment of a state or municipal law.**

Subscriber Calls to a Cable System

Under the federal guidelines, each cable system must maintain a local, toll-free or collect-call telephone line available 24 hours a day, 7 days a week. During normal business hours, company representatives must be available to respond to customer inquiries. After normal business hours, (the hours during which most similar businesses in the community are open to serve customers), the cable system may use an answering service or machine so long as messages are answered the next business day. In addition, the cable system's customer service center and bill payment locations must be conveniently located and must be open at least during normal business hours and should include at least one night per week and/or some weekend hours.

A call to a cable system must be answered -- including time the caller is put on hold -- within 30 seconds after the connection is made. If the call is transferred, the transfer time may not exceed 30 seconds. Also, cable system customers may receive a busy signal no more than three percent of the time. Although no special equipment is required to measure telephone answering and hold time, cable operators should use their best efforts in documenting compliance. These requirements must be met 90 percent of the time, measured quarterly, under normal operating conditions.

Installations, Service Interruptions and Service Calls

①

Federal guidelines state that standard installations -- which are those located up to 125 feet from the existing distribution system -- must be performed within seven days after an order has been placed. Except in situations beyond its control, the cable operator must begin working on a service interruption no later than 24 hours after being notified of the problem. A service interruption has occurred if picture or sound on one or more channels has been lost. The cable operator must begin to correct other service problems the next business day after learning of them. Cable operators may schedule appointments for installations and other service calls either at a specific time or, at a maximum, during a four-hour time block during normal business hours. Cable operators may also schedule service calls outside of normal business hours for the convenience of the customer. No appointment cancellations are permitted after the close of business on the business day prior to the scheduled appointment. If the cable installer or technician is running late and will not meet the specified appointment time, he or she must contact the customer and reschedule the appointment at the convenience of the subscriber. These requirements concerning installations, outages and service calls must ordinarily be met at least 95 percent of the time, measured quarterly, under normal operating conditions.

Changes in Rates or Service and Billing Practices

Thirty days advance written notice (using any reasonable written means) must be given to subscribers and local franchising authorities of any changes in rates, programming services or channel positions, if the change is within the control of the cable operator. Cable operators are not required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by a Federal agency, State, or franchising authority on the transaction between the operator and the subscriber. Cable system bills must be clear, concise and understandable, with full itemization. Cable operators should respond to written complaints about billing matters within 30 days. Refunds must be issued no later than either the customer's next billing cycle or 30 days following resolution of the request, whichever is earlier, or upon the return of equipment when service is terminated. Credits must be issued no later than the billing cycle following the determination that a credit is warranted.

Information to Customers

The following information must be provided to customers at the time of installation and at least annually to all subscribers and at any time upon request: products and services offered; prices and options of programming services and conditions of subscription to programming and other services; installation and service maintenance policies; instructions on how to use the cable service; channel positions of programming carried on the system; and billing and complaint procedures, including the address and telephone number of the local franchising authority's office.

UNAUTHORIZED RECEPTION OF CABLE SERVICES

The 1984 Cable Act provides damages and penalties of up to two years in prison and/or \$50,000 in fines to be assessed against anyone determined to be guilty either of the unauthorized interception or reception of cable television services or of the manufacture or distribution of equipment intended to be utilized for such a purpose. The Commission does not prosecute unauthorized reception of cable services. Rather, cable operators aggrieved by a violation may bring an action in a United States district court or in any other court of competent jurisdiction. Knowledge of violations should be reported directly to the cable system.

SIGNAL CARRIAGE REQUIREMENTS

The 1992 Cable Act established new standards for television broadcast station signal carriage on cable systems. Under these rules, each local commercial television broadcast station was given the option of selecting mandatory carriage ("must-carry") or retransmission consent ("may carry") for each cable system serving the same market as the commercial television station. The market of a television station is established by its Area of Dominant Influence ("ADI"), as defined by Arbitron and/or modified by the Commission. Every county in the country is assigned to an ADI, and those cable systems and television stations in the same ADI are considered

(2)



DEPARTMENT OF TECHNOLOGY SERVICES

Isiah Leggett
County Executive

Steve Emanuel
Chief Information Officer

MEMORANDUM

September 17, 2007

To: Management and Fiscal Policy Committee

FROM: Jane Lawton, Cable Communications Administrator
DTS- Office of Cable and Communications Services

SUBJECT: Interim Update on Customer Service MFP Worksession
Monday, September 24th, 2007

I. Customer Service Issues

A. Comcast:

1. **Arbitration-** On July 10th, 2007, the County was notified that Comcast would be sending customers an Arbitration Notice through a bill insert. The Cable Office did not receive advance notification of the notice as is required by the Franchise Agreement. Notices had been sent to two of the four billing cycles at the same time the County was notified. Customers were given thirty days to opt-out of the arbitration notice. The Cable Office believed the notice to be of concern because it uses a negative option to deny consumers the opportunity to affirmatively accept the change in their service agreement with Comcast. On July 26th, the County issued a press release advising Comcast customers to Opt-Out of "Arbitration Notice" to protect their rights. Customers experienced difficulty "opting out" online at certain times, but the Cable staff contacted Comcast to restore service. We received many calls from persons stating that they appreciated having this information. The Cable Office has met with Comcast to again admonish them to provide these materials to the Office for review prior to distribution to customers.

2. **Free Video and Cable Modem Obligations -** There are currently 19 outstanding requests for free cable modem or video services (list attached).

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Office of Cable and Communication Services

3. **Effective Competition- Background:** Comcast has filed a Petition for Determination of Effective Competition with the FCC. If the Petition is granted, the County and the participating municipalities would lose the authority to regulate the rates for basic cable service, equipment and installation. Also, Comcast would not be required to provide uniform rates throughout the franchise area, could bundle services so that basic subscribers would have to subscribe to a higher tier of service in order to receive premium channels and may even be able to transfer subscribers to new tiers of service unless they affirmatively "opt-out".

The Petition is currently being reviewed by the FCC. The County filed a surreply to correct some information in the opposition filed by Comcast. On September 7, 2007, Comcast filed a motion to strike the surreply of Montgomery County, Maryland, and of course, the County submitted opposition to that motion.

4. **High Speed Internet-** The Cable Office is receiving complaints from Comcast internet customers that they are being disconnected for excessive downloading. Comcast has declined to provide customers with information about their download limits. There were several articles concerning this matter in the Washington Post and on various blogs. We contacted Comcast regarding this matter. They have concerns about releasing firm limits but state that the limit is so large that it is difficult to reach and that there are very few customers who have reached the limit. They believe that their policy is reasonable. We have had one written complaint and several others which were responded to by telephone.

5. **Pixelation-** We are seeing an increase in the number of reception related problems. Pixelation and freezing reception issues have resurfaced. The majority of complainants also report having a difficult time reaching Comcast when calling on the telephone. They report many times their phone call is promptly disconnected after ringing for several minutes.

B. RCN:

1. **Responsiveness-** The County is still concerned with the speed of RCN's responsiveness concerning complaints. County staff contacted and met with RCN staff concerning this and inspections. RCN takes several days to respond and a few more days to correct the problem.

2. **Customer Payment Center-** On August 1, 2007, RCN Showcase and Payment Center relocated to a new facility at 1331 Pennsylvania Av, NW. The new location is accessible via bus and is located at the Metro Center Metro stop.

C. Verizon:

1. **Copper disconnection policy-** We asked for clarification of Verizon's policy concerning disconnection of the copper wire necessary for plain old telephone service. We asked again this month because our inspectors cited Verizon for several places where the copper wire was left on the pole hanging or on the ground. When Verizon installs FiOS service, they leave in place but disconnect the copper drop cable if it is buried. If the copper connection between the telephone pole and the residence is aerial, they leave the drop in place on the pole, unless the customer requests that it be moved. If, at a later date, a customer asks to have copper-based phone service, whether from Verizon or a competitor who orders their loop facility, Verizon will reinstall the copper drop.
2. **Non-Disclosure statement-** Verizon requested that our engineering contractors sign a non-disclosure statement before being allowed to observe proof of performance tests. The County and CTC have concerns about this requirement, but made every attempt to reach agreement about this matter. We had several conference calls concerning it, but in the end were not able to reach agreement. CTC is a small company compared to Verizon, and the County felt that the exposure was too great. In the meantime, CTC was denied access to Verizon's central office to observe the tests as conducted this summer. (Testing is discussed later in this report. At that meeting, it was decided that this is still an open matter between Verizon and the County.)
3. **Customer Service-** Verizon issues remain sporadic with no one issue standing out.

II. Customer Complaints

The Cable Office has provided statistical data to the MFP committee for June, July and August. (Please see attached charts)

A. Comcast- The complaints have decreased over the same period last year. Service, reception and billing are the areas of most concern.

B. RCN- The complaint levels remain about the same for RCN. Service, billing and telephone answering are the areas of most concern.

C. **Verizon-** Billing conversions from phone to the FiOS packages seem to be the major area that the County is currently receiving complaints.

III. Compliance Issues: Reports

The compliance data submitted for this MFP interim update session is for the month of July. Comcast and RCN have submitted their July statistics. Verizon has just met the subscriber threshold that requires that they submit reports and they will be required to provide this information for the third quarter of 2007.

The Cable Office is currently developing a new electronic reporting structure that could be utilized by all three franchisees so that all reports are compatible. The Cable Office hopes to roll-out this new reporting mechanism in the first quarter of 2008.

A. Comcast

1. **Liquidated Damages-** On August 27, 2007, the County assessed liquidated damages pursuant to Comcast's franchise agreement with the County because they were in violation of two applicable telephone answering standards. For the period of March, April & May 2007, Comcast did not comply with the requirement that telephone answering time by a CAE not exceed thirty seconds and that the time to transfer a call to a customer service representative not exceed an additional thirty seconds. Comcast was originally warned of these issues in June of 2006. Liquidated damages in the amount of \$24,563.70 were assessed. Comcast has paid these fines, but have stated that their reporting of the second standard was erroneous. They would like the first standard be changed to a measurement of the AVR answering and the second standard be the 30 second answered by a live representative. In the past the standards have been: 1. the first measurement is 30 seconds from the time a person selects their choice (on the AVR) and the time a live representative picks up and 2. if a transfer to another customer representative is required, 30 seconds to that pick up. At present the County continues to use these standards for all three providers.

2. **Warning-** Pursuant to Section 9(d)(1) of the Franchise Agreement, Comcast must ensure that at least 95% of the time, measured quarterly, repairs and maintenance not requiring work within a subscriber premises must be completed within twenty-four hours. During the second quarter Comcast only met that requirement 84.65% of the time. Comcast has been notified of the violation and given the period of September, October and November 2007 to come back into compliance.

B. RCN-

RCN is in compliance with the customer service requirements of their franchise.

C. Verizon

Verizon management met with Cable Office staff on reporting structures that are to be utilized. We are currently working together to delineate the necessary data that will be required for the future reports. Verizon is working with the Cable Office on a system where Verizon would be able to track their phone compliance numbers for the Montgomery County area only.

IV. Construction Violations:

A. Comcast- In the third quarter, our engineers have met with Comcast construction staff and have reviewed the kinds of violations being reported, especially grounding issues at subscribers homes, and ways to improve their reporting process. Some of the changes discussed at that time have been implemented and we are now getting progress reports from Comcast on a more frequent basis

1. **Testing-** Monitor test results from the 2nd quarter found that all but 5 of the 48 locations where our engineering consultants measured signal quality, met the FCC's minimum technical standards.
2. **Inspections-** During the first quarter our inspectors cited 2,928 construction violations. Comcast reported that they had addressed 1,579 (54%) of the problems by the end of the quarter, which is an improvement from previous recent quarters. Comcast reported that corrective action was performed within 30 days for approximately 80% of the violations. This percentage is also an improvement from previous quarters.
3. **Re-Inspections-** Our inspector's report that based on their second quarter re-inspections of 1,673 violations, 15% had not been corrected as reported. The County has assessed a fine on Comcast.

B. RCN – You may recall that at the last MFP meeting to review RCN's performance, there was a discrepancy between the number of outstanding violations our consultants reported and what RCN's records showed. RCN staff, both at the local level and the corporate level, have been very cooperative in addressing that issue. We met with RCN staff shortly after the last MFP meeting and reviewed the numbers and the reporting process.

The result of those discussions is that RCN has assigned the 1,421 violations that we showed as still outstanding to their contractors for corrective action. RCN will be providing weekly updates on their progress. As of September 10th, CTC has received responses to 213 of the outstanding violations. RCN reports that they are pressing their contractors to visit all the remaining locations where there are violations as quickly as possible.

1. **Testing-** Monitor tests measurements for RCN test locations showed one location with low signal levels and two channels that failed to meet the standards for the video-to-audio separation.
2. **Inspections-** There were 117 violations reported to RCN in the first quarter which included some clearance issues, bonding and grounding, pole guying problems and the need for tree guards at a number of locations. Our records show that RCN has 1878 violations outstanding. They have hired a contractor to work on the outstanding complaints. On a weekly basis they provide a report to the County of violations that have been corrected.
3. **Re-Inspections-** In the second quarter report, CTC states that for the locations where RCN had reported corrective action for the 3rd and 4th quarter Of 2006, their re-inspections found that that all but 8% of those they looked at were fixed.

C. Verizon- We recently met with Verizon representatives and CTC staff to review our inspection and reporting procedures. We provided lists of the violations that will be cited as out of compliance with the requirements of the Franchise. Margie Williams and CTC staff also met with Verizon's construction managers and contractor representatives to review the inspection procedures and the types of violations our inspectors look for during inspection. Those were productive meetings and Verizon staff has been cooperative in establishing communications to report their corrective work. Although only a few violations have been found and reported for the Verizon cable system plant so far, Verizon has been responsive in taking corrective action in a timely manner.

1. **Proof of Performance Testing-** The County and Verizon met last week concerning their proof of performance tests. The County has made suggestions about how to make their tests more reflective of the performance of the County system. Verizon engineers and regulatory managers, along with their attorney, met and reviewed all of the County's concerns. They will be reporting back to the County within two weeks. It appeared that these issues would be worked out and the appropriate information would be furnished so that we can verify the success of their tests. The contractor non-disclosure agreement issue is still open, and we will continue to try to reach an agreement on that.

V. Institutional Network (I-NET)

- Franchise required- WSSC Burtonsville is scheduled to be built by Comcast in the 4th quarter of 2007. When this site is completed that will conclude the sites that are required per the franchise.
- County requested- Comcast continues to do an excellent job in providing fiber to additional sites that the County has contracted with them to build for us.

VI. Rate Regulation

Comcast's FCC Form 1205, a national composite filing, is currently under review by the County. The County is participating in the review with a number of local franchise authorities including the Cities of Albuquerque, NM, Tacoma, WA and Nashville, TN among others. FCC Form 1240 is scheduled to be filed with the County on October 1st, 2007.

Franchise Fee Increase – the County is reviewing the recent franchise fee increase instituted by Comcast for its accuracy. A draft order is pending which reflects the County's position. It will be shared with Comcast this week. The County will consider Comcast's input prior to issuing the order.

VII. Mid-Term Technical Review

The technical performance and capabilities of the cable system may be evaluated by the County at approximately the mid-point in the term of the Franchise. This process ("Mid-Term Review" or "Review") is intended to enable the County to determine whether to require a system upgrade to include new and emerging technologies in use by the cable industry and presently operating in other communities similar to Montgomery County. This process is also intended to include an evaluation of the performance and capabilities of the Institutional Network and Public, Educational, and Government channels.

The County contracted technical review services from Columbia Telecommunications Corporation who conducted a comprehensive and thorough review of the current cable technology in use in the industry and being used in other communities similar to Montgomery County. Comcast also provided their assessment of the state of their system and the services that they are providing in the County.

Based on our review of the CTC and Comcast reports we conclude:

- The suite of video services provided by Comcast of Montgomery County is at par with the services available to similar communities in the rest of the country.
- Comcast of Montgomery County currently offers voice services.
- The Comcast cable system and services are at par with residential and business services provided by cable system operators in comparable US communities.
- With regard to government services provided in comparable communities, Comcast of Montgomery County provides equivalent or better service to Montgomery County than service for other communities.

Based on those findings, the County does not feel it is necessary to issue an Upgrade Order for the Comcast cable television system.

However, pursuant to Comcast's current franchise requirements, we identified several PEG and I-Net issues that may have to be addressed by Comcast in the near future:

- The present analog video programming links to the Comcast headend should be upgraded to SDI (digital) to improve video quality.
- The cable system is currently capable of supporting VOD, and the County may request VOD services for PEG programming in the future, as defined in Section 7(a)(3) of the Franchise.
- Comcast should continue to work with the County to complete construction of the I-Net to the WSSC facility in Burtonsville, the last I-Net site to be connected.

The Mid-term Review of the RCN system is still in progress and should be completed within the next few months.

VIII. PEG Interconnection

Our engineering consultants are working with Comcast to establish a digital transport switching system to permit bi-directional interconnection between all the PEG operators that will facilitate sharing of video programming among their production facilities. This could also enable one PEG operator to assist in programming delivery during an outage for another operator. The design for the interconnection is one that will enable full control of the switching among the operators without the need for coordination and manual patch panel connection and assistance from Comcast staff on a case-by-case basis. County and Comcast engineers met this week to test the Comcast fiber to ascertain the feasibility for

this interconnection project. This project will enhance the County's PEG programming and also, could be an enhancement for emergency alert services.

Complaint Description Breakdown Timeframe: June 2007

| Comcast Complaints | VoIP | | | Internet Telephone | | | Service- Cable Line | | | | | | | |
|---------------------------|---------|---------|---------|--------------------|------|-------|---------------------|--------------|----------------------------|---------|---------|---------|-------|-----|
| | Billing | Service | Service | Service | Ans | Time | Reception | Construction | Marketing | Install | ability | Related | Other | |
| 160 | 38 | 118 | 11 | 46 | 14 | 55 | 2 | 10 | 9 | 1 | 27 | 7 | | |
| Complaint Percentage | 23.8% | 73.8% | 6.9% | 28.8% | 8.8% | 34.4% | 1.3% | 6.3% | 5.6% | 0.6% | 16.9% | 4.4% | | |
| Total Issue Percentage | 11.2% | 34.9% | 3.3% | 13.6% | 4.1% | 16.3% | 0.6% | 3.0% | 2.7% | 0.3% | 8.0% | 2.1% | | |
| Total Issues Generated | | | | | | | | 338 | Total Issues per Complaint | | | | | 2.1 |

| RCN Complaints | Billing | | VoIP | | Internet | | Telephone | | Construction | Marketing | Service- Cable Line | | |
|-------------------------|---------|---------|---------|---------|----------|------|-----------|---------|--------------|----------------------------|---------------------|---------|-------|
| | Service | Service | Service | Service | Ans | Time | Reception | Install | | | ability | Related | Other |
| 2 | 0 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Complaint Percentage | 0.0% | 50.0% | 0.0% | 50.0% | 100.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Issue Percentage | 0.0% | 25.0% | 0.0% | 25.0% | 50.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Total Issues Generated | | | | | | | | | 4 | Total Issues per Complaint | | | 2.0 |

| Verizon Complaints | Internet | | | Telephone | | Reception | Construction | Marketing | Install | Service- ability | Cable Line Related | Other | |
|-------------------------|----------|---------|---------|-----------|------|-----------|--------------|-----------|----------------------------|---------------------|-----------------------|-------|-----|
| | Billing | Service | Service | Ans Time | | | | | | | | | |
| 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | |
| Complaint Percentage | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 100.0% | 0.0% | 0.0% | |
| Issue Percentage | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 100.0% | 0.0% | 0.0% | |
| Total Issues Generated | | | | | | | | 1 | Total Issues per Complaint | | | | 1.0 |

Complaint Description Breakdown Timeframe: July 2007

| Comcast Complaints | VoIP | | | Internet Telephone | | | Service- Cable Line | | | | | | |
|---------------------------|---------|---------|---------|--------------------|------------|-----------|---------------------|----------------------------|-----------------|---------|-------|------|-----|
| | Billing | Service | Service | Service | Ans w Time | Reception | Construction | Marketing | Install ability | Related | Other | | |
| 144 | 56 | 79 | 5 | 30 | 16 | 33 | 7 | 11 | 5 | 0 | 18 | 7 | |
| Complaint Percentage | 38.9% | 54.9% | 3.5% | 20.8% | 11.1% | 22.9% | 4.9% | 7.6% | 3.5% | 0.0% | 12.5% | 4.9% | |
| Total Issue Percentage | 21.0% | 29.6% | 1.9% | 11.2% | 6.0% | 12.4% | 2.6% | 4.1% | 1.9% | 0.0% | 6.7% | 2.6% | |
| Total Issues Generated | | | | | | | 267 | Total Issues per Complaint | | | | | 1.9 |

| RCN Complaints | VoIP | | | Internet Telephone | | | Service- Cable Line | | | | | |
|-------------------------|---------|---------|---------|--------------------|------------|-----------|---------------------|----------------------------|-----------------|---------|-------|-----|
| | Billing | Service | Service | Service | Ans w Time | Reception | Construction | Marketing | Install ability | Related | Other | |
| 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Complaint Percentage | 50.0% | 50.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Issue Percentage | 50.0% | 50.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | |
| Total Issues Generated | | | | | | | 2 | Total Issues per Complaint | | | | 1.0 |

| Verizon Complaints | Internet | | | Telephone | | | Service- | | | Cable Line | | |
|-------------------------|----------|---------|---------|------------|-----------|--------------|-----------|----------------------------|---------|------------|-------|-----|
| | Billing | Service | Service | Ans w Time | Reception | Construction | Marketing | Install | ability | Related | Other | |
| 5 | 2 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 1 | 0 | |
| Complaint Percentage | 40.0% | 0.0% | 0.0% | 0.0% | 0.0% | 20.0% | 20.0% | 20.0% | 0.0% | 20.0% | 0.0% | |
| Issue Percentage | 33.3% | 0.0% | 0.0% | 0.0% | 0.0% | 16.7% | 16.7% | 16.7% | 0.0% | 16.7% | 0.0% | |
| Total Issues Generated | | | | | | | 6 | Total Issues per Complaint | | | | 1.2 |

Complaint Description Breakdown Timeframe: August 2007

| Comcast Complaints | VoIP | | | | Internet Telephone | | | | Service- Cable Line | | | |
|----------------------------|---------|---------|---------|---------|--------------------|-----------|--------------|-----------|--------------------------------|---------|---------|-------|
| | Billing | Service | Service | Service | Ans w Time | Reception | Construction | Marketing | Install | ability | Related | Other |
| 189 | 73 | 119 | 22 | 58 | 11 | 43 | 3 | 8 | 4 | 0 | 15 | 10 |
| Complaint Percentage | 38.6% | 63.0% | 11.6% | 30.7% | 5.8% | 22.8% | 1.6% | 4.2% | 2.1% | 0.0% | 7.9% | 5.3% |
| Total Issue Percentage | 19.9% | 32.5% | 6.0% | 15.8% | 3.0% | 11.7% | 0.8% | 2.2% | 1.1% | 0.0% | 4.1% | 2.7% |
| Total Issues Generated 366 | | | | | | | | | Total Issues per Complaint 1.9 | | | |

| RCN Complaints | VoIP | | | | Internet Telephone | | | | Service- Cable Line | | | |
|---------------------------|---------|---------|---------|---------|--------------------|-----------|--------------|-----------|--------------------------------|---------|---------|-------|
| | Billing | Service | Service | Service | Ans w Time | Reception | Construction | Marketing | Install | ability | Related | Other |
| 8 | 3 | 3 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 1 |
| Complaint Percentage | 37.5% | 37.5% | 0.0% | 0.0% | 0.0% | 25.0% | 0.0% | 0.0% | 0.0% | 0.0% | 12.5% | 12.5% |
| Issue Percentage | 30.0% | 30.0% | 0.0% | 0.0% | 0.0% | 20.0% | 0.0% | 0.0% | 0.0% | 0.0% | 10.0% | 10.0% |
| Total Issues Generated 10 | | | | | | | | | Total Issues per Complaint 1.3 | | | |

| Verizon Complaints | Internet | | | | Telephone | | | | Service- Cable Line | | | |
|---------------------------|----------|---------|---------|---------|------------|-----------|--------------|-----------|--------------------------------|---------|---------|-------|
| | Billing | Service | Service | Service | Ans w Time | Reception | Construction | Marketing | Install | ability | Related | Other |
| 15 | 7 | 2 | 2 | 0 | 1 | 1 | 2 | 4 | 1 | 0 | 0 | 1 |
| Complaint Percentage | 46.7% | 13.3% | 13.3% | 0.0% | 6.7% | 6.7% | 13.3% | 26.7% | 6.7% | 0.0% | 0.0% | 6.7% |
| Issue Percentage | 35.0% | 10.0% | 10.0% | 0.0% | 5.0% | 5.0% | 10.0% | 20.0% | 5.0% | 0.0% | 0.0% | 5.0% |
| Total Issues Generated 20 | | | | | | | | | Total Issues per Complaint 1.3 | | | |

Open Requests County Obligated Cable Drop as of 09/12/2007

| <i>Date Submitted</i> | <i>Company Name</i> | <i>Organizational Type</i> | <i>Address</i> | |
|-----------------------|------------------------------------------------|----------------------------|---------------------------|---------------|
| 1/11/2006 | Department of Fire and Rescue Services | County Government | 8110 Georgia Av | Silver Spring |
| 4/4/2006 | Department of Police | County Government | 8300 Helgerman Ct | Gaithersburg |
| 4/10/2006 | Montgomery College | Educational | 7977 Georgia Av | Silver Spring |
| 6/23/2006 | Montgomery County Police | County Government | 7700 Old Georgetown Rd | Bethesda |
| 1/29/2007 | Department of Police | County Government | 8300 Helgerman Ct | Gaithersburg |
| 1/30/2007 | Montrose Christian School | Educational | 5100 Randolph Rd | Rockville |
| 2/5/2007 | Montgomery County Public Schools | Educational | 1700 Yale Pl | Rockville |
| 2/5/2007 | Montgomery County Public Schools | Educational | 250 Richard Montgomery Dr | Rockville |
| 3/2/2007 | The Family Services Agency, Inc. | Non Profit/Healthcare | 23439 Tailor Shop Pl | Clarksburg |
| 3/2/2007 | The Family Services Agency, Inc. | Non Profit/Healthcare | 640 East Diamond Av | Gaithersburg |
| 3/22/2007 | The ARC of Montgomery County-After All Program | Non-Profit | 3101 University Blvd W | Kensington |
| 6/27/2007 | Department of Economic Development | County Government | 155 Gibbs St | Rockville |
| 7/12/2007 | MCPS Food Services | County Government | 16644 Crabbs Branch Wy | Rockville |
| 8/7/2007 | Upper County Community Center | County Government | 8201 Emory Grove Rd | Gaithersburg |
| 8/14/2007 | State's Attorney for Montgomery County | County Government | 50 Maryland Av | Rockville |
| 8/14/2007 | Montgomery County Sheriff's Office | County Government | 199 E Montgomery Av | Rockville |
| 8/21/2007 | East Community Center | County Government | 3310 Gateshead Manor Wy | Silver Spring |
| 8/27/2007 | Family Services Agency, Inc | Non Profit/Healthcare | 640 East Diamond Av | Gaithersburg |
| 9/7/2007 | The Arc of Montgomery County | Non Profit/Healthcare | 9604 Traville Gateway Dr | Rockville |

Total Open Requests 19

15

washingtonpost.com

Shutting Down Big Downloaders

Comcast Cuts Internet Service to Bandwidth Hogs

Advertisement

By Kim Hart
Washington Post Staff Writer
Friday, September 7, 2007; A01

The rapid growth of online videos, music and games has created a new Internet sin: using it too much.

Comcast has punished some transgressors by cutting off their Internet service, arguing that excessive downloaders hog Internet capacity and slow down the network for other customers. The company declines to reveal its download limits.

"You have no way of knowing how much is too much," said Sandra Spalletta of Rockville, whose Internet service was suspended in March after Comcast sent her a letter warning that she and her teenage son were using too much bandwidth. They cut back on downloads but were still disconnected. She said the company would not tell her how to monitor their bandwidth use in order to comply with the limits.

"You want to think you can rely on your home Internet service and not wake up one morning to find it turned off," said Spalletta, who filed a complaint with the Montgomery County Office of Cable and Communication Services. "I thought it was unlimited service."

As Internet service providers try to keep up with the demand for increasingly sophisticated online entertainment such as high-definition movies, streaming TV shows and interactive games, such caps could become more common, some analysts said.

It's unclear how many customers have lost Internet service because of overuse. So far, only Comcast customers have reported being affected. Comcast said only a small fraction of its customers use enough bandwidth to warrant pulling the plug on their service.

Cable companies are facing tough competition from telephone giants like AT&T and Verizon, which are installing new cables capable of carrying more Internet traffic.

The cable companies collectively spent about \$90 billion in the past decade to improve their networks. And on cable networks, several hundred subscribers often share an Internet connection, so one high-traffic user could slow the rest of a neighborhood's connections. Phone lines are run directly to each home, so a single bandwidth hog will not slow other connections.

As Internet users make more demands of the network, cable companies in particular could soon end up with a critically short supply of bandwidth, according to a report released this month by ABI Research, a New York market-research firm. This could lead to a bigger crackdown on heavy bandwidth users, said the report's author, Stan Schatt.

"These new applications require huge amounts of bandwidth," he said. Cable "used to have the upper hand because they basically enjoyed monopolies, but there are more competitive pressures now."

To trigger a disconnection warning, customers would be downloading the equivalent of 1,000 songs or four full-length movies every day. Comcast spokesman Charlie Douglas declined to reveal specific

http://www.washingtonpost.com/wp-dyn/content/article/2007/09/06/AR2007090602545_pf... 9/7/2007

bandwidth limits.

"It's our responsibility to make sure everyone has the best service possible," he said, "so we have to address abusive activities so they won't damage the experience for other customers. "

Companies have argued that if strict limits were disclosed, customers would use as much capacity as possible without tipping the scale, causing networks to slow to a crawl.

Some customers are unaware they are using so much capacity, sometimes because neighbors are covertly connecting through unsecured wireless routers. When they are told of that possibility, many curb their use after an initial warning, Douglas said. Others, however, may be running bandwidth-hungry servers intended for small businesses from their homes, which can bog down a network serving a neighborhood. Comcast said it gives customers a month to fix problems or upgrade to business accounts before shutting off their Internet service.

Joe Nova of North Attleboro, Mass., lost Internet service after Comcast told him that he was using too much bandwidth to watch YouTube videos, listen to Internet radio stations and chat using a Web camera. He and other customers who complained of being shut off said they were not running servers from their homes.

"Sure, I'm online a lot, but there's no way I could have been consuming that much capacity," Nova said.

Other Internet service providers, including Time Warner Cable, Verizon and AT&T, say they reserve the right to manage their networks, but have not yet suspended service to subscribers. Smaller Internet service providers RCN in Herndon, Leros Technologies in Fairfax and OpenBand in Dulles said they do not cap bandwidth use.

Some AT&T customers use disproportionately high amounts of Internet capacity, "but we figure that's why they buy the service," said Michael Coe, a spokesman for the company.

Cox Communications, which provides Internet and cable services to parts of Northern Virginia and Maryland, said the bandwidth demand on its network has doubled every year for the past six years. It has boosted its speeds twice in the past 18 months to keep up and offers tiered service plans for heavier users, spokesman Alex Horwitz said.

"We don't spend a lot of time enforcing [bandwidth] caps, but we contact customers when their usage is egregious enough for it to impact the network," he said. "Instances are few and far between."

When Comcast canceled service to Frank Carreiro, who lives in a Salt Lake City suburb, he started a blog about the experience. His wife and six children then relied on sluggish dial-up Internet access until a phone company offered DSL service in his neighborhood.

"For a lot of people, it's Comcast or it's nothing," he said.

Bob Williams, director of HearUsNow.org, a consumer Web site run by Consumers Union, said the vagueness of Comcast's rules is "unfair and arbitrary."

"They're cutting service off to the people who want to use it the most," he said.

Schatt, the ABI Research analyst, said he expects cable companies to spend about \$80 billion over the

http://www.washingtonpost.com/wp-dyn/content/article/2007/09/06/AR2007090602545_pf.... 9/7/2007

next five years to increase network capacity. In addition, they may acquire airwaves at an upcoming federal auction and could lay fiber-optic lines over their existing cables. Switching to digital-only programming could also help conserve capacity.

Comcast, Cox and Time Warner say they have more than enough capacity to meet demand and are adding new technologies to strengthen signals. Bruce McGregor, senior analyst at Current Analysis, a research firm in Sterling, said the bandwidth bottleneck is not yet a crisis for cable companies, but it could intensify with competition from phone companies.

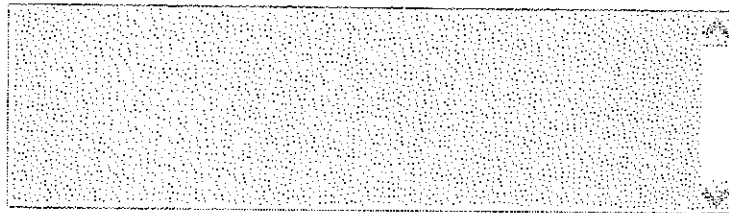
Companies like Comcast "need to address people who are major drains on the network" without angering consumers, he said. "They're not the only game in town anymore."

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MONTGOMERY COUNTY, MARYLAND

News Release

For Immediate Release: 7/26/2007

County Advises Comcast Customers to Opt Out of "Arbitration Notice" to Protect Rights

Montgomery County officials are warning Comcast cable subscribers who want to preserve their consumer rights to pay close attention to their July bills and take the appropriate steps to "opt out" of the Arbitration Notice that is included in the bills.

The Comcast Arbitration Notice – which was sent out without County approval – attempts to change the terms of the subscriber agreement and limit subscriber rights. The subscriber's best protection is to "opt out" of the policy within 30 days from the date of receipt of the bill.

"We are concerned about this Arbitration Notice because it uses a negative option technique to deny consumers the opportunity to affirmatively accept the change in their service agreement with Comcast," said County Executive Isiah Leggett. "Vendors should not change the terms of service without first receiving the consent of the consumer, and the fact that Comcast has not done this is disturbing."

"The County Council has always been a strong advocate for consumers and there should be no exceptions with the cable industry. It is important that customers know and exercise their rights," said Marilyn Praisner, President of the Montgomery County Council.

"Comcast's unilateral action to change the subscriber agreement, with an artificial 30-day deadline, is simply anti-consumer," said County Council member Duchy Trachtenberg, Chair of the Management and Fiscal Policy Committee. "The Management and Fiscal Policy Committee continues to scrutinize Comcast's performance, but in this case, we already know what urgent action needs to be taken. To preserve your legal rights, go online to www.comcast.com/arbitrationoptout and opt out now."

"On the surface, arbitration sounds like a good thing, but Comcast's proposed change is one-sided. We are concerned that subscribers will unknowingly give up some of their consumer rights by failing to opt out in time," said Jane Lawton, Montgomery County's Cable Administrator. "Comcast customers need to know that they do not have to accept this unilateral change in terms of their service."

According to Comcast, customers who do not opt out of the Arbitration Notice within 30 days of receiving the notice will relinquish their right to pursue any legal remedies against Comcast in court, including claims for negligence, fraud or intentional wrongdoing. Nor can they join together as a class to seek common remedies. Comcast also attempts to limit the time in which subscribers can file a claim for injuries to one year and an even shorter

time for billing disputes.

However, the changed policy preserves **Comcast's** rights to pursue those suits it is most likely to have against individual subscribers – such as copyright violations, unauthorized use or receipt of service, and small claims. These are excluded from the arbitration notice.

Comcast customers can “opt out” of the Arbitration Notice either online or by mail by taking the following actions:

On line: Go to www.comcast.com/arbitrationoptout and fill out the form. You will need a copy of your Comcast bill so that you can enter your entire 14-digit customer account number as it appears on the bill. If you have any difficulties, call 1-800-COMCAST (1-800-266-2278) and report the problem. You should keep a copy of the form.

By Mail: Write a note to Comcast which includes your name, address, Comcast account number, and a statement that you do not wish to resolve disputes with Comcast through arbitration, and then mail to: Comcast, 1500 Market Street, Philadelphia, PA 19102, ATTN: Legal Department/Arbitration. You should also keep a copy of the letter you send to Comcast.

Comcast subscribers who have any problems or concerns should contact the County Office of Cable and Communications Services at **240-773-2288**.

###

Release ID: 07-318

Media Contact: Donna Bigler 240-777-6530

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Tel: 301.625.3500
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www.comcast.com

August 3, 2007

Ms. Jane Lawton
Cable Communications Administrator
Montgomery County Department of Technology Services
Office of Cable and Communication Services
100 Maryland Avenue, Suite 250
Rockville, MD 20850

Re: Comcast Arbitration Notice to Montgomery County Customers

Dear Ms. Lawton:

This letter responds to your letter of July 20, 2007 to Sanford Ames, regarding Comcast's recent notice to its customers regarding the incorporation of an arbitration clause in its customer agreement. You indicated that it "is important that the County understand the reasons for Comcast's failure to comply with the requirements of §9-(f)(4) of the Franchise Agreement and Section 8A-14(d) of the Cable Law." We respectfully disagree with your claim that current law requires Comcast to submit its recent arbitration notice to the County for approval. Moreover, Comcast is in compliance with the County's rules regarding customer service notifications. Finally, we would like to express our concern with the County's recent public approach towards the arbitration notice. Comcast's arbitration provision provides a number of benefits to customers including their continued right to sue Comcast in small claims court. It also provides customers with the right to opt out of arbitration. In contrast, the arbitration provisions contained in the service agreements of many companies provide customers with no choice but to agree to arbitration as a condition of receiving service.

Prior to the County amending Section 8A-14 of the Cable Law in October 2006, all operators in the County were required to obtain approval from the County of all forms describing customer service policies and procedures. Since the amendment, operators in the County are no longer required to submit such forms for County approval. The amendment of the Cable Law dealing with customer service standards, and specifically this approval requirement, relieved Comcast of any obligation it previously had to provide prior notice to the County or to obtain prior approval of customer correspondence.

The County ostensibly took this action to "ensure that the Cable Law was consistent with federal and state law and to clarify the scope of the communications cable law." Indeed, in your October 3, 2006 statement as Cable Communications Administrator, you pointed out that the amendments to the Cable Law were "intended to

¹ Memorandum from Sonya Healy, Legislative Analyst and Michael Faden, Senior Legislative Attorney on "Action: Expedited Bill 40-06, Cable Communications - Amendments," Agenda Item #7, October 17, 2006, at 1.

clarify the scope of the County's authority over cable services and conform the County Code to existing federal law controlling the regulation of cable television services."² You further noted that "these revisions will help citizens and cable providers to understand what the County requires and will avoid the appearance that the County requires anything inconsistent with federal law."³ The amendment to the Cable Law does not suggest that its provisions are to be applied in a discriminatory manner by the County so as to relieve certain cable operators from the requirement to obtain prior approval while continuing to require Comcast to obtain such approval. Nor does the legislative history suggest that the underlying purposes cited by you were only to be enjoyed by "some" citizens served by certain operators and not others.

The legislative history confirms that the County amended the Cable Law as it affected all providers of cable services. More specifically, the legislative history reflects that "the Committee agreed that the provision requiring the Cable Office to approve all notices before a franchisee sends a notice to subscribers should be repealed . . ."⁴ If the County intended to amend the Cable Law only as it pertained to Comcast's competitors, the County was obligated to justify the basis for such discrimination at the time of the amendment.

In addition, we note that Section 2(l) of Comcast's Franchise Agreement provides that the terms of the Cable Law govern when there is a conflict between the Cable Law and a cable television franchise. While that provision does not grant the County the unfettered discretion to unilaterally amend Comcast's contract, it is clear that under limited circumstances the County may amend the Cable Law to address public health, safety and welfare issues. As you know, when the FCC implemented its cable customer service regulations it reserved to local franchising authorities the right to pass customer service regulations at any time. The amendment of the Cable Law as it pertains to the obligation to obtain prior approval of customer notices certainly is an amendment to a local customer service requirement, and therefore an effective amendment to the Cable Law as it pertains to Comcast. Therefore, a direct conflict is created between an applicable provision of the Cable Law and Comcast's franchise, with that conflict being resolved in favor of the provision of the Cable Law.

For these reasons, Comcast was not required to obtain prior approval of the notification that advised customers of this new policy. Comcast also complied with Section 8A-14(d) of the Cable Law as revised because your office was provided with a copy of the customer notice regarding the new arbitration policy prior to its distribution to our customers.

² Statement by Jane Lawton before Montgomery Council Hearing on Proposed Amendments to Chapters 8A and 11 of the County Code, October 3, 2006.

³ *Id.*

⁴ Memorandum from Douglas M. Duncan to George L. Leventhal re: Proposed Amendments to Cable Law and Consumer Protection Law, September 14, 2006, at 4.

Finally, in recent press statements the County has encouraged Comcast's customers to "opt out" of the arbitration provisions disclosed under the notice. We certainly understand and respect any customer's desire to "opt out" and are affording customers appropriate opportunity to do so. However, as the County provides advice to its constituents, we ask you to take the following into consideration:

1. Comcast is affording its customers an opportunity to "opt out" from application of the arbitration provision in writing or by visiting a designated web site. This opt out provision is not commonly found in customer agreements. In fact, although the customer agreements of several media and telecommunications companies as well as other service related companies contain arbitration provisions, very few permit customers the right and opportunity to opt out of the provision as does Comcast's customer agreement.

2. Under section j of the notice, a number of claims have been excluded from arbitration for the benefit of consumers. For example, individual claims that may be filed in a small claims court are excluded. In addition, and with particular attention to communities such as Montgomery County, customers continue to be able to pursue any dispute before a local franchise authority under the terms of a franchise.

3. Comcast is advancing the arbitration filing fees and arbitrator's costs for the customer. Those costs are only reimbursed to Comcast if the customer does not prevail.

4. Finally, the Maryland courts have expressly approved the use of arbitration clauses in consumer contracts subject to certain protections which are more than adequately addressed in Comcast's procedures.⁵

As always, should you have any questions or wish to have further discussions, please do not hesitate to contact me.

Sincerely,



Angela L. Lee

Area Senior Director – Government Affairs

Cc: Isiah Leggett, County Executive
Steven Emanuel, Chief Information Officer
Patrick Lacefield, Director – Public Information Office
All County Council members

⁵ *Doyle v. Finance America, LLC*, 918 A. 2d 1266 (2007); *Walther v. Sovereign Bank*, 872 A2d 735 (2005).



Home Page > News > Business > Biz Stories

Verizon's Copper Cutoff Traps Customers

July 9, 2007 - 4:39am

By DEBORAH YAO
AP Business Writer

PHILADELPHIA (AP) - When Henry Powderly II ordered Verizon Communications Inc.'s FiOS fiber-optic service, he knew he was about to be connected to the future of telecommunications.

He also got unplugged from its past. Which meant that while Powderly was gaining features, he was losing some telecommunications options.

Verizon's installer _ without warning, Powderly says _ removed the copper wires that used to carry his phone calls. For most of the world, copper still links homes and businesses, as it has for a century.

Verizon's new high-bandwidth fiber lines are fully capable of carrying not only calls but also Internet data and television with room to grow. But once the copper is pulled, it's difficult to switch back to the traditional phone system or less expensive Digital Subscriber Line service. And Verizon isn't required, in most instances, to lease fiber to rival phone companies, as it is with the copper infrastructure.

What's more, anyone who owns Powderly's house in the future will face higher bills with FiOS than another home with copper. Right now, for instance, Verizon's DSL plans cost as little as \$15 a month. FiOS Internet starts at \$30 a month.

"I was not given an option," said Powderly, a 30-year-old Long Island, N.Y., resident.

As it hooks up homes and businesses to its fiber network, Verizon has been routinely disconnecting the copper and, many subscribers say, not telling them upfront or giving them a choice. More than 1 million customers have signed up for a FiOS service, which is offered mainly in the suburban areas of 16 states.

Verizon spokesman Eric Rabe said customers should have been notified at least three times _ once by the sales representative when FiOS is ordered, by the technician before copper is cut, and through paperwork given to the customer. Some customers say that hasn't happened.

The New York phone company has made it clear its entire network is going to fiber-optics. Verizon has decided to spend \$23 billion to make fiber available to 18 million homes by 2010. Network maintenance savings could top \$1 billion a year, Verizon said.

"It's a huge expense to maintain those copper networks," said Scott Randolph, federal regulatory director at Verizon. "At some point in time, it would not make sense to operate two networks."

Mark Cooper, research director at the Consumer Federation of America, says there are other reasons for snipping the wires.

"They don't want to maintain it _ they don't want the expense and they don't want the competition," he said.

Under the Telecommunications Act of 1996, incumbent phone companies like Verizon must lease to rivals their copper network. That's generally not the case for next-generation fiber systems. And so far, Verizon has filed more than 100 notices with the Federal Communications Commission to retire portions of copper throughout its network.

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The FCC allows the retirement of copper as long as public notice is given so the phone companies can work together to ensure the smaller companies' access. But rivals say access at reasonable prices is not guaranteed and it's just a matter of time before they're cut off.

"It's a horrendous situation. ... We don't let General Motors build a highway and decide what size cars to let on the road," said Joe Plotkin, marketing director for Bway.net, a New York Internet provider. "The small guys have tried to fight this re-monopolization of the network infrastructure."

He and other smaller rivals contend the communications market is fast becoming a two-player game between giant phone and cable companies _ diminishing consumer choice.

While AT&T Inc. and Qwest Communications International Inc. are also retiring their copper networks, they're not touching the so-called "last mile" of copper wiring that runs from each customer's dwelling to the central office where other lines aggregate. Laying fiber, a robust pipeline, through the last mile is much more expensive because each line goes to a particular home or business.

Verizon is taking the pricey route because it believes fiber offers a superior service that will lure customers away from cable operators, who now offer telephone service in addition to television and high-speed Internet.

Besides limiting options down the road, the switch to FiOS can have other implications. Unlike copper-connected phone service, FiOS doesn't work during power outages once a backup battery goes out _ not even for emergency calls. Home-alarms and certain other devices work best with copper.

Rabe, the Verizon spokesman, said the company will restore copper to homes if the customer insists, but Verizon would rather not reconnect the copper and will try to persuade the customer to agree. At any rate, the phone giant provides ample warning, he said.

An example of what Rabe describes as adequate notice is the fine print on Verizon's FiOS policy, which is printed on its Web site. It says "current Verizon Online DSL customers who move to FiOS Internet service will have their Verizon Online DSL permanently disabled after their FiOS conversion."

Bill Kelm, a FiOS customer in suburban Dallas, filed a complaint with the Federal Trade Commission last year because of Verizon's "inconspicuous" policy rules.

"It's buried within these long terms of service that people never take the time to read," he said. "It needs to be more conspicuous."

While Kelm has no quarrel with FiOS itself _ he pays \$145 a month for TV, Internet and phone _ he would like to have been told before he signed up that Verizon would cut the copper. He was counting on Verizon's clearly advertised 30-day money back guarantee in case he didn't like the service and wanted to switch back.

"I blew a gasket," Kelm said. "The 30-day money back guarantee was worthless in my opinion."

He's also concerned that Verizon initially priced its current FiOS service lower only to jack rates up once the subscriber is reeled in.

"Then, you're stuck," Kelm said.

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MONTGOMERY COUNTY

Testing and Inspection Report

Comcast Subscriber Network

Second Quarter 2007
April 1 - June 30, 2007

FOX HILLS OF POTOMAC
R.N. 5245
UNITS 258

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I. INTRODUCTION

This report documents the quality of construction and the technical performance of the cable television system in Montgomery County during the second quarter of 2007.

The Comcast system rebuilt in 2002 provides service to County subscribers from its headend via 14 optical transition nodes ("OTN"), or hubs, and approximately 362 fiber optic nodes, each of which is designed to deliver signals to approximately 1,500 homes. The rebuild construction included an Institutional Network ("I-Net") presently connected to over 100 County buildings and offices.

The County's Office of Cable and Communication Services administers a comprehensive cable oversight program to ensure that a high level of services are provided in compliance with the terms and conditions of the Franchise Agreement, applicable sections of the County Code, Federal Communications Commission ("FCC") rules and regulations, and other relevant guidelines, rules, and generally accepted industry practices. Columbia Telecommunications Corporation ("CTC"), under contract to the County, provides the engineering support for the County's testing and inspection program. The program includes inspection of the physical cable system plant and system performance monitoring and testing.

The inspection portion of the program examines each phase of the construction process, which includes the addition of new service areas to the system as well as maintenance and repair of the existing system. To evaluate overall plant construction, inspections are conducted in three phases: in-progress construction, post-construction, and re-inspection of repairs. Details of the inspection violations reported are provided in Appendix A.

The performance testing portion of the program is comprised of a series of system performance tests including:

- Semi-annual Proof-of-Performance tests required by the FCC;
- Quarterly monitor tests to collect additional data on system performance between the two semi-annual proof test periods;
- Acceptance tests of newly built and activated segments of the system; and
- Periodic tests of the fiber optic connections from the public, educational, and government programming ("PEG") facilities to the cable system's central programming distribution center or "headend."

These tests are used to monitor the compliance of the system with FCC, Comcast, and County technical specifications. The schedule for the tests is provided in Appendix B.

This report details the results of the testing and inspection program conducted by CTC for the period from April 1 to June 30 2007.

II. CONSTRUCTION INSPECTION

The County continuously inspects the quality of in-progress construction work and the physical cable plant and equipment in the public rights-of-way. These inspections verify the extent to which the construction complies with the engineering design, construction standards for physical cable plant and installation of equipment on the cables, safety of work-in-progress, and the restoration of work areas after construction has been completed. The results of our inspection are summarized in this report. Where problems are found during the inspection process, the specific violations are cited and provided to the operator for appropriate corrective action. This process verifies that for the locations inspected the system is constructed, maintained, and operated in accordance with local and national construction and safety codes as required in §5 of the Franchise Agreement. In addition to other construction and operating requirements of the County Code and the Franchise Agreement, the primary authorities for compliance are summarized in Appendix F, with explanations of typical violations reported by our inspectors.

A. Work-in-Progress Inspection Sites

During construction, the performance of the work crews is monitored for compliance with Department of Public Works and Transportation standards for work in the public rights-of-way, national codes, and with generally accepted cable industry standards for construction. The system operator provides the County with a list of locations where its construction crews will be working so that our inspectors may visit a sampling of these locations to verify that all safety codes and construction regulations required by the Franchise Agreement are followed.

Table 1 summarizes the number of "work sites" inspected during the reporting period. The statistic reported for work sites is simply the total number of sites each month where the operator reported active construction. This statistic gives a sense of the level of construction activity in the community.

| Table 1 Work Sites and Project Inspections | | | |
|-------------------------------------------------------------|----------------------------------|-------------------------------------|--------------------|
| Month | Total # Active Work Sites | Total # Work Sites Inspected | % Inspected |
| April | 82 | 59 | 72% |
| May | 132 | 50 | 38% |
| June | 100 | 25 | 25% |
| | | | |
| Quarter Totals | 314 | 134 | 43% |
| | | | |
| 2007 Totals | 627 | 254 | 41% |

There were two areas where new construction was reported during the quarter. All other work in the field was for plant maintenance. No problems were found by our inspectors at the locations they inspected.

B. Design Map Review

No design maps were submitted for review during the second quarter.

C. Construction Inspection Results

After construction is complete, the physical plant and construction work areas are inspected to verify that construction and restoration of the work site complies with the standards required by the Franchise Agreement.

During the second quarter our inspectors reported 3,018 violations. Comcast reported that they had addressed 2,377 (79%) of the problems by the end of the quarter and had actually corrected all but approximately 260 of the problems reported. These 260 violations require cooperation with other service providers attached to the poles to attain proper clearances from their cables, or will need additional work to cure -- for example, installation of new underground drops.

Table 2 summarizes the violations reported during the second quarter by type of violation category.

| Table 2 | | | | | |
|--------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Construction Inspection Summary – Reported Violations | | | | | |
| Type of Problem | 2006 2nd Qtr | 2006 3rd Qtr | 2006 4th Qtr | 2007 1st Qtr | 2007 2nd Qtr |
| Construction | 1460 | 1720 | 1364 | 1675 | 1831 |
| Equipment | 48 | 49 | 75 | 38 | 38 |
| Restoration | 58 | 123 | 179 | 56 | 55 |
| Subscriber Drops | 633 | 558 | 680 | 1159 | 1094 |
| Totals | 2199 | 2450 | 2298 | 2928 | 3018 |

In the Construction category, over one-third of the problems found during the second quarter were related to either guying of the poles that support the cable plant or to the lashing that secured the cables to the supporting strand. To fix those problems Comcast reported that they had installed new guy wires where required, replaced old guy wires that had broken, tightened slack guy wires to the proper tension to support the cables on the poles, and installed guards to protect the pedestrians passing by the wires.

To address the nearly 500 locations (approximately 16% of the total violations) where large tree branches posed problems for the cable plant, Comcast reported that they installed numerous tree guards or trimmed tree branches where needed to protect the cables and lashing from damage.

Approximately 13% of the construction category of violations was related to grounding of the steel strand on the poles. These were mostly at the ends-of-lines where grounds are required but were not present.

Approximately 36% of the violations in the second quarter were related to subscriber drops. We found many locations where newly installed drops did not meet current NEC code for grounding, which requires the drop to be bonded to the main electrical service ground. We found some locations where the drop ground wire had been bonded to heat pumps, swimming pool timers, water fountains, cold water spigots, and even one that had been connected to a construction trailer. Comcast reported properly reconnecting many grounds, and based on our review of Comcast's repair response comments, they have ordered additional work to reroute the drops so that they may be connected to the main electric ground as required. A number of drops we cited as being connected to cold water spigots were reported by Comcast as acceptable. In our meeting with Comcast we discussed that this practice no longer complies with the current NEC.

Other drop related violations included drops that were not properly attached to the house or to the pole on the street, disconnected drops that dangled from the poles at the street and needed to be removed, and exposed underground drops that needed to be properly buried.

As of the end of the quarter, our records showed that Comcast had not reported the status of 641 violations reported for repair during the second quarter. Our records also showed that Comcast had not responded to 1,682 violations reported in prior quarters: 348 violations from the first quarter 2007 and 1,334 violations from the fourth quarter 2006. We have provided Comcast with a listing of those violations still outstanding and will report Comcast's response in the next quarterly report.

Since the reporting of violations to Comcast and their response is a continuous process, we have provided a list of the statistics of Comcast's performance to-date (Table 3). We will update this table in future quarterly reports as well.

| <p align="center">Table 3 Comcast Repair Record of Reported Violations</p> | | | | | | |
|----------------------------------------------------------------------------------------------|-----------------|-----------------|-----------------------------|-----------------|-----------------|----------------------------------------------------------|
| Repair Record | 2nd Qtr 2006 | 3rd Qtr 2006 | 4 th Qtr 2006 | 1st Qtr 2007 | 2nd Qtr 2007 | Total Violations Accounted for as of June 30, 2007 |
| Total Violations | 2199 | 2450 | 2298 | 2928 | 3018 | |
| addressed within 30 days | 2168 | 824 | 387 | 2213 | 2322 | |
| addressed over 30 days | 31 | 1626 | 577 | 367 | 55 | |
| Total Repaired | 2199 | 2450 | 2298 964 | 2580 | 2377 | |
| Outstanding Violations | 0 | 0 | 1334 | 348 | 641 | 2,323 |

A listing of the violations reported in the second quarter is provided in Appendix A.

Inspection Alerts

We report violations that present a hazardous situation or a potential liability to the County or cable system operator as "Inspection Alerts." The operator attempts to correct these violations within seven days. We reported four Alerts during the quarter -- all for temporary drop cables across sidewalks, driveways, or roadways. Comcast reported correction of three of these four alerts as of the end of the quarter -- two of them reported repaired within 7 days. During this period, Comcast also reported correction of the one outstanding alert from the first quarter, although not within the desired 7-day timeframe.

D. Re-inspection of Violations

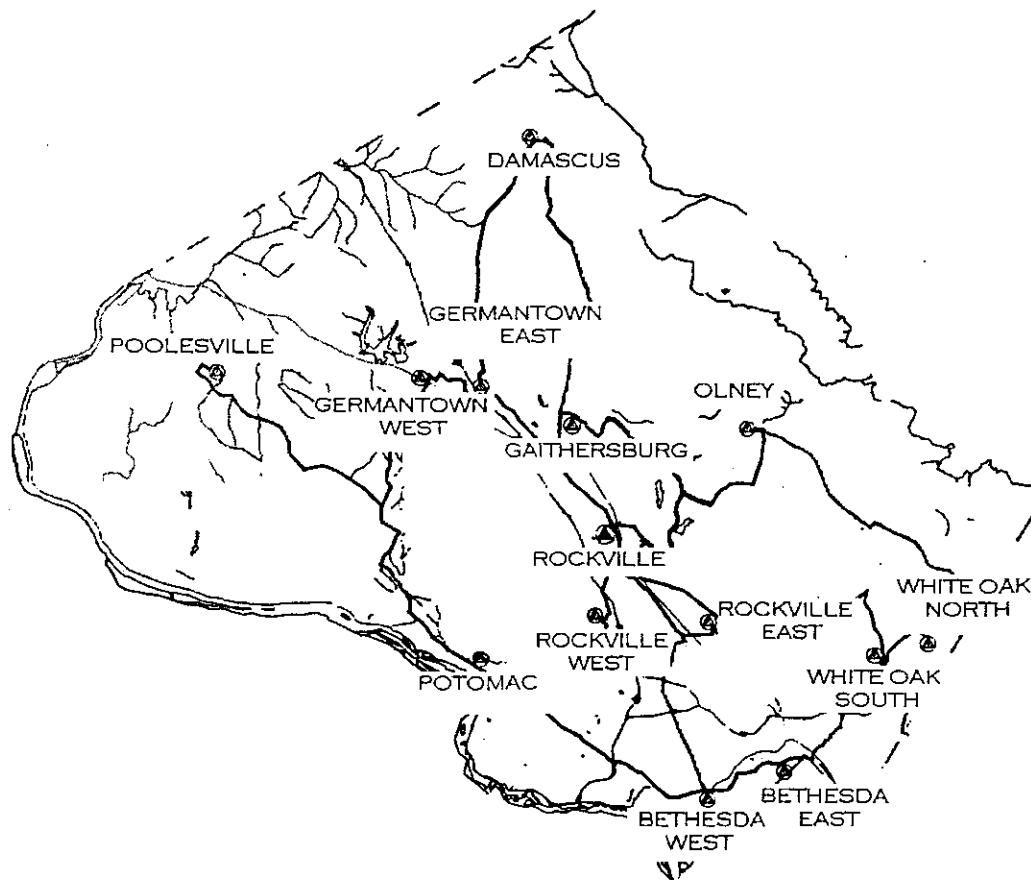
After Comcast reports correction of violations, we re-inspect a sampling of those violations to verify that the repair has been made and that the problem has been corrected. During the second quarter, we inspected 1,673 violations that Comcast reported having fixed and found that 252 (15%) had not been resolved as reported. We have provided Comcast with a copy of those violations for follow-up and necessary corrective action.

III. SYSTEM PERFORMANCE TESTING

CTC conducts a program of system-wide tests to evaluate the overall performance of the cable system. The performance tests are based on FCC and Franchise requirements and the approved design characteristics of the cable system. The testing program includes tests for newly constructed areas, required FCC tests, and monitor tests.

The system headend is located at the Comcast facility on Gude Drive in Rockville. The rebuilt system design utilizes 14 optical transition nodes ("OTN"), as well as a separate OTN dedicated to serve Leisure World, with redundant fiber rings along separate paths to all OTNs except the Poolesville Hub. The OTNs serve approximately 362 fiber optic nodes throughout the County. The OTN architecture is illustrated in Figure 1.

Figure 1: OTN Architecture



The system operator and the County jointly established 49 fixed test points throughout the service area. These test points, located at the extremities of the system, were selected to provide a representative geographic sampling of the system for electronic performance measurements.

A. Federal Communications Commission Proof-of-Performance Tests

The system operator is required by the FCC to perform semi-annual Proof-of-Performance ("proof") tests in accordance with FCC procedures to demonstrate that overall performance of the cable system meets the minimum technical standards for analog signals as established by the FCC for cable television systems. The number of test locations is determined by the size of the system using a formula devised by the FCC. For the Comcast Montgomery County system, the FCC's test procedures require a sampling of signals on nine channels at a minimum of 21 different geographic locations on the system. The proof tests are performed once in the winter and once in the summer to measure system performance during temperature extremes that can impact transmission of signals across the system. We observe proof tests, which are performed by Comcast contractors, to verify the tests are properly conducted and the results are accurately reported according to FCC rules.

The next round of proof tests will be conducted in August. Comcast submitted the complete set of test data for the winter 2007 and summer 2006 proof tests during this quarter. Our review of the results of those tests found that the system performance measurements met all required FCC minimum technical standards.

B. Monitor Tests

CTC conducted the second quarter monitor tests from June 13th to June 26th. For the monitor tests, we measure signal-to-noise ratio, hum, and signal levels. We also perform an objective viewing of the picture quality on all analog channels.

Based on the results of the tests we performed at 48 test locations, all but five of the locations met FCC standards for the measurements sampled. At five of the test locations we recorded very low signal levels, which resulted in measurements that did not meet FCC technical performance standards. These locations included the following sites:

- PL-01: 2003 Haller Road (substitute site for 21400 Big Woods Road -- no open ports)
- PL-02: Darnestown Road and Jerusalem Road
- RV-08: 14117 London Lane
- WO-07: 2109 Parker Avenue
- WO-08: 706 Woodside Parkway

We also found that our measurements for the audio-to-video signal levels at many test locations exceeded FCC standards for channels 33, 76, 79, and 99. Additionally, we found that the video signal level on Channel 56 exceeded FCC standards for the variation with adjacent channels. We also noted that the carrier-to-noise measurements for channel 17 (WPXW Manassas) failed to meet FCC performance standards at numerous test points. Since we observed these problems (video-to-audio and channel 17 carrier-to-noise levels) at numerous test locations on the system, we conclude that the source of that problem may be resolved with simple adjustments at the headend by Comcast staff.

A copy of the test results for failed test locations is included in Appendix C of this report and has been provided to Comcast for review and necessary corrective action.

Additional information on test measurements standards, including an explanation of the effects of signals that do not meet the minimum FCC technical measurements, is included in Appendix D. The current Comcast channel line-up is provided in Appendix E.

C. Acceptance Tests

No new nodes were tested during the second quarter.

D. PEG Feed Tests

In conjunction with interconnection of the PEG production centers to facilitate enhanced video switching among the PEG operators, we will be testing all links for PEG sites in the County during the third quarter. Comcast is working with our engineers to implement the interconnection. We will report our findings in the third quarter report.

E. I-Net Tests

There were no I-Net tests conducted during the second quarter. There is one I-Net site, a WSSC office located just across the County line in Prince George's County, that still needs to be connected. Comcast of Montgomery had previously reported they were working with the Prince George's Comcast staff to make this connection; however, it has been outstanding for quite a while and needs to be resolved.



Columbia Telecommunications Corporation • 10613 Concord Street • Kensington, MD 20895
301.933.1488 • fax: 301.933.3340 • www.CTCnet.us

August 13, 2007

Via Electronic Transmission

Ms. Jane Lawton
Cable Communications Administrator
Office of Cable and Communication Services
Montgomery County Government
100 Maryland Avenue, Room 250
Rockville, MD 20850

Re: RCN Second Quarter 2007 Report

Dear Ms. Lawton:

This is to update you on the status of our testing and inspection of the RCN system during the second quarter of 2007.

Construction Inspection

Cable Plant

We reported 426 violations to RCN for correction during the second quarter. As has been the case over the past several quarters, nearly all violations reported were in the Construction category. Only 10% of the problems were related to subscriber drops; mainly for unused drops that required removal or drops that were too low and presented clearance problems.

We found that plant problems in the rights-of-way were primarily for locations that required tree guards or tree trimming (34% of the total), correction of guying or lashing violations (25%), or proper bonding and/or grounding of the plant. The remainder of the cited violations included clearance issues with other cables on the poles and locations where coils of fiber optic cables had come loose from their attachments to the strand and fallen to the ground. We also reported nine locations where RCN needed to relocate their cables from old poles to new poles so the old poles could be removed.

A list of violations reported to RCN during the second quarter is provided in Attachment A.

RCN Repairs/Re-inspection

Last quarter we reported that our records showed 2,242 violations had been reported to RCN for corrective action but for which RCN had not provided a response regarding the status of repair. That issue was discussed in July at the County Council Management and Fiscal Policy meeting

to review the cable operator's performance. RCN reported that their records showed less than 200 violations had not been addressed. We were asked to work with RCN to reconcile our records to resolve this discrepancy. We met with RCN staff and provided them with a listing of the violations we showed as still outstanding. They have been very cooperative in working to resolve this issue and sent us their most current record of corrected violations. Our review of this RCN list found there are still 1,421 violations that RCN has not reported as corrected. We provided to RCN a listing of these outstanding violations for response and/or correction.

During the quarter, we re-inspected a sampling of sites RCN reported as repaired. Of the 359 locations revisited, 27 (8%) were not corrected as reported. We have provided a list of these sites to RCN for follow-up.

Performance Testing

Proof-of-Performance Tests

RCN has not yet submitted a complete set of proof test measurements from the winter 2007 or summer 2006 tests. We will review those documents in RCN's public files when we meet with RCN staff in August to observe the summer proof tests.

Monitor Tests

We performed monitor tests at 11 test locations on the RCN plant on June 27th and June 28th. We were unable to test one site (810 Lanark Way) because the drop has been disconnected. We have asked RCN to either reconnect the cable or provide an alternate location for use in future system performance tests.

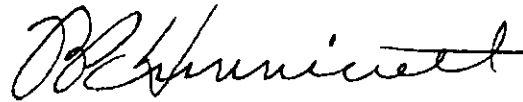
At one test point (2945 Woodstock Avenue) the signal levels were so low that the measurements failed to meet the FCC minimum technical standards for which we tested. Additionally, all sites tested failed to meet audio-to-video separation standards because the audio carrier levels for channels 18 (UMDC) and 13 (City of Takoma Park) were low. Problems like this can usually be corrected by adjustments by RCN staff at their headend. We have reported our findings to RCN staff for corrective action.

All other measurements at the test points met FCC minimum standards. A copy of the test results for the failed test point is provided as Attachment B to this report. We have alerted RCN to those problems and will follow-up to see if they have been addressed when we observe the proof-of-performance tests and conduct PEG feed tests in mid-August.

Ms. Jane Lawton
August 13, 2007
Page 3

Should you have any questions regarding this report or need additional information, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hunnicutt", with a stylized flourish at the end.

Robert P. Hunnicutt

Attachments
RPH/cc

\\Mc-CATV\RCN\Inspection Report\2007\2nd Qtr\RCN Status Report 2nd qtr 2007_080907.doc

MONTGOMERY COUNTY CODE

Sec. 8A-20. Enforcement remedies.

(a) If a franchisee violates any provision of the law or its franchise agreement, the County may take one or more of the following actions:

(1) impose liquidated damages in the amount, whether per day, incident, or other measure of violation, as provided in the franchise agreement. Payment of liquidated damages by the franchisee will not relieve the franchisee of its obligation to meet the franchise requirements;

(2) require the franchisee to pay its subscribers or classes of subscribers in an amount and on a basis the County determines is necessary to cure the breach or default, or equitably compensate for the violation; or

(3) revoke the franchise under this Chapter.

(b) In determining which remedy or remedies are appropriate under subsection (a), the County must consider the nature of the violation, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and any other matters the County determines are appropriate.

(c) In addition to or instead of these remedies, the County may seek legal or equitable relief from any court of competent jurisdiction.

(d) Before initiating a remedy under this section other than revocation of the franchise, the County must give the franchisee written notice of the violations claimed and at least 10 working days to correct the violations. (FY 1991 L.M.C., ch. 3, § 1; 2006 L.M.C., ch. 34, § 1.)



Comcast Cable
20 West Gude Drive
Rockville, MD 20850

September 19, 2007

Ms. Jane E. Lawton
Cable Communications Administrator
Montgomery County Department of Technology Services
Office of Cable and Communication Services
100 Maryland Avenue, Suite 250
Rockville, MD 20850

Dear Ms. Lawton,

On behalf of Comcast, I am pleased to submit to you the following information, which highlights the improvements in our call center from January 2007 through August 2007.

We believe the latest data shows the positive results of our efforts to focus on customer service and the strong commitment Comcast is making to deliver the best possible experience for each customer. We have been doing this through hiring, training, and continual system enhancements throughout the company.

Comcast Summary Information

Montgomery County Service Level Summary

*Represents the percentage of calls answered within thirty seconds from the time it takes for a customer to reach a live customer service representative once he/she chooses that option through the automated response unit.

For January 2007 through August 2007

| <u>Hours</u> | <u>Jan</u> | <u>Feb</u> | <u>Mar</u> | <u>Apr</u> | <u>May</u> | <u>Jun</u> | <u>Jul</u> | <u>Aug</u> |
|---------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| 24x7 Service Level | 62% | 66% | 75% | 83% | 74% | 87% | 90% | 90% |
| NBH* Service Level | 77% | 80% | 85% | 89% | 82% | 92% | 93% | 95% |

*NBH – Normal Business Hours

Throughout the year, Comcast has focused on hiring customer service personnel, including customer service representatives and technicians. This hiring, in combination with our realignment of personnel schedules has had a positive impact in meeting customer demand for our products and services. Comcast also continues to make investments in training so that all of our service representatives have the most accurate information and knowledge by which to assist

our customers. Comcast remains focused on customer service and looks forward to continuing to work with you and your office to provide only the best quality cable service within the County.

We appreciate the opportunity to submit this update and look forward to providing you with our complete supporting data as usual prior to the end of the month. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bokee', with a stylized flourish at the end.

Joshua Bokee
Director, Government Affairs

Cc: Amanda Mihill, Legislative Analyst, Montgomery County Council